IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
C.A.NO.3137/2003 IN F.A.NO.1351/2003

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Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

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CORAM: A.S.OKA, J.
DATE:SEPTEMBER 3, 2004.

P.C.:

1. Rule. Shri Sabrad waive service for Respondent Nos.1 to 6 who are the original claimants. Service on the other Respondents is dispensed with.

2. First Appeal has been admitted. The challenge in this First Appeal is to the Judgment and Award dated 7th January 2003 passed by the learned Member of Motor Accident Claims Tribunal. The Respondent Nos.1 to 6 are the claimants in the accident claim. The Respondent No.1 is the widow of the deceased and Respondent Nos.2 to 4 are the minor children. The Appeal is filed by the original Opponent No.1 who is owner of the offending truck involved in the accident. The learned Counsel for the Appellant submits that the only grievance made in the Appeal is that the learned Member of the Tribunal ought to have passed Award against the Insurance

Company-Respondent No.8 as there was a valid contract of insurance between the Appellant and the Respondent No.8. The learned Counsel for the Appellant stated that there is no challenge in the Appeal to the quantum of compensation.

3. It is therefore very clear that the Appellant being owner of the offending vehicle is liable to pay compensation as per the impugned Judgment and Award. Even if the Award was to be made against the Respondent No.8-Insurance Company, it would have been a joint and several Award against Appellant and Respondent No.8. Therefore, there is no question of granting stay to the execution and operation of impugned Judgment and Award. Even if the Appellant succeeds in the Appeal, he will continue to be liable to pay the compensation. The Appellant can always subsequently recover the said amount from the Respondent No.8 on the basis of contract of insurance and on the basis of statutory provisions.

4. In the circumstances, Civil Application is rejected with no order as to costs.

Judge.